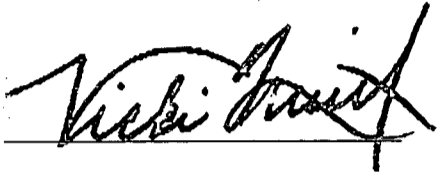


I certify this to be a true and correct
copy of the indicated document as
referred or transmitted to committee.

Chief Clerk of the House

FILED MAR 06 2007

By:



H.B. No. 2602

A BILL TO BE ENTITLED

AN ACT

relating to the regulation of certain chiropractic clinics;
creating an offense and providing civil and criminal penalties.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subtitle C, Title 3, Occupations Code, is
amended by adding Chapter 207 to read as follows:

CHAPTER 207. NON-DOCTOR-OF-CHIROPRACTIC-OWNED CHIROPRACTIC
CLINICS

Sec. 207.001. DEFINITIONS. In this chapter:

(1) "Applicant" means a person or business seeking to
be licensed under this chapter or seeking the renewal of a license
under this chapter.

(2) "Board" means the Texas Board of Chiropractic
Examiners.

(3) "Chiropractic care records" means records of
patient treatment and care maintained by date of service.
Chiropractic care records are the sole property of the patient and
must be maintained and in the custody of the doctor of chiropractic
providing the services for the period prescribed by the Texas Board
of Chiropractic Examiners.

(4) "Commission" means the Texas Commission of
Licensing and Regulation.

(5) "Commissioner" means the commissioner of
licensing and regulation.

1 (6) "Contracted doctor of chiropractic" means any
2 doctor of chiropractic as defined in Section 201.002(b) who holds a
3 current active license to practice chiropractic and who has entered
4 into a contractual agreement with a licensed chiropractic clinic
5 owner to provide chiropractic care.

6 (7) "Controlling person" means:

7 (A) an officer or director of a corporation
8 seeking a license under this chapter, a shareholder holding 10
9 percent or more of the voting stock of a corporation seeking to own
10 or operate a non-doctor-of-chiropractic-owned chiropractic clinic,
11 or a partner of a partnership seeking to own or operate a
12 non-doctor-of-chiropractic-owned chiropractic clinic; or

13 (B) an individual who possesses, directly or
14 indirectly, the power to direct or cause the direction of the
15 management or policies of a company that owns and operates a
16 non-doctor-of-chiropractic-owned chiropractic clinic through the
17 ownership of voting securities, by contract or otherwise.

18 (8) "Department" means the Texas Department of
19 Licensing and Regulation.

20 (9) "Doctor of chiropractic" has the meaning assigned
21 by Section 201.002(b).

22 (10) "Independent contractor" means a person other
23 than a doctor of chiropractic who contracts to perform work or
24 provide a service for the benefit of another and who:

25 (A) is paid by the job, not by the hour or on some
26 other time-measured basis;

27 (B) is free to hire as many helpers as the person

1 desires and to determine what each helper will be paid; and

2 (C) is free to work for other contractors, or to
3 send helpers to work for other contractors, while under contract to
4 the hiring employer.

5 (11) "Licensee" means a person or entity licensed
6 under this chapter who owns or operates a
7 non-doctor-of-chiropractic-owned chiropractic clinic.

8 (12) "Non-doctor-of-chiropractic-owned chiropractic
9 clinic" means a chiropractic facility licensed under this chapter
10 and registered under Section 201.312.

11 (13) "Patient" means a person seeking and receiving
12 chiropractic care or services.

13 (14) "Person" means an individual, association,
14 corporation, organization, government or governmental subdivision
15 or agency, business trust, estate trust, joint venture,
16 partnership, or other legal entity.

17 (15) "Public company" means a corporation whose shares
18 are listed on the New York Stock Exchange and that has total assets
19 that exceed \$1 billion.

20 Sec. 207.002. RULES; INTERAGENCY COOPERATION. (a) The
21 commissioner shall adopt rules as necessary to administer this Act.

22 (b) Rules shall be adopted in compliance with Chapter 2001,
23 Government Code.

24 (c) Each licensee is governed and controlled by this chapter
25 and the rules adopted by the commissioner.

26 (d) Notwithstanding any other provision of this chapter,
27 nothing in this chapter preempts the existing statutory or

1 rulemaking authority of any other state agency or entity to
2 regulate non-doctor-of-chiropractic-owned chiropractic clinics in
3 a manner that is consistent with the statutory authority of that
4 state agency or entity.

5 (e) Each state agency that, in performing duties under other
6 law, affects the regulation of non-doctor-of-chiropractic-owned
7 chiropractic clinics shall cooperate with the department, the
8 commissioner, and other state agencies as necessary to fully
9 implement and enforce this chapter. In particular, the board, the
10 Texas Department of Insurance, the division of workers'
11 compensation of the Texas Department of Insurance, and the attorney
12 general's office shall assist in the implementation of this chapter
13 and shall provide information to the department on request.

14 Sec. 207.003. LICENSE REQUIRED; APPLICATION. (a) A
15 non-doctor-of-chiropractic-owned clinic may not allow a licensed
16 doctor of chiropractic to engage in or offer chiropractic services
17 or chiropractic care in this state without holding a license issued
18 under this chapter.

19 (b) Each non-doctor-of-chiropractic-owned clinic that
20 desires an original or renewal non-doctor-of-chiropractic-owned
21 chiropractic clinic license shall file with the department a
22 written application accompanied by the application fee.

23 (c) The department may require an applicant for a license
24 to provide information and certifications necessary to determine
25 that the applicant meets the licensing requirements of this
26 chapter. The department may also require the applicant to provide
27 information and certifications necessary to determine whether

1 individuals affiliated with the applicant are qualified to serve as
2 controlling persons.

3 (d) An applicant, a licensee, a spouse of an applicant or
4 licensee, a partner of an LLP, or any stockholder of a corporation
5 is ineligible for a license for two years after the date of final
6 department action on the denial or revocation of a license applied
7 for or issued under this chapter. This restriction does not apply
8 to a denial or revocation of a license if the basis of the action
9 was:

10 (1) an inadvertent error or omission in the
11 application if that error or omission is promptly corrected;

12 (2) the experience documented to the department was
13 insufficient at the time of the previous application; or

14 (3) the department was unable to complete the criminal
15 background investigation required under Section 207.004 because of
16 insufficient information received from a local, state, or federal
17 law enforcement agency.

18 (e) An applicant, a licensee, a spouse of an applicant or
19 licensee, a partner of an LLP, or any stockholder of a corporation
20 is ineligible for a license for one year after the date of final
21 department action on the denial or revocation of a license applied
22 for or issued under this chapter if:

23 (1) the basis of the denial or revocation was that one
24 or more of the controlling persons affiliated with the applicant or
25 licensee was determined by the department to be unsuitable; or

26 (2) that unsuitable controlling person has in fact
27 ceased to be a controlling person of the applicant or licensee.

1 Sec. 207.004. LICENSE REQUIREMENTS. (a) To be qualified to
2 serve as a controlling person of a licensee under this chapter, that
3 person must be at least 18 years of age, be of good moral character,
4 and have educational, managerial, or business experience relevant
5 to:

6 (1) operation of a business entity offering
7 chiropractic care; or

8 (2) service as a controlling person of a chiropractic
9 care facility.

10 (b) For the purposes of this section, "good moral character"
11 means a personal history of honesty, trustworthiness, fairness, a
12 good reputation for fair dealing, and respect for the rights of
13 others and for the laws of this state and nation.

14 (c) The department shall conduct a thorough background
15 investigation of each individual applicant and of each controlling
16 person of each applicant to determine whether that applicant or
17 controlling person is qualified under this chapter. The department
18 may deny an application for the issuance or renewal of a license if
19 it finds that a controlling person is not qualified under this
20 chapter. The investigation must include:

21 (1) the submission of fingerprints for processing
22 through appropriate local, state, and federal law enforcement
23 agencies; and

24 (2) examination by the department of police or other
25 law enforcement records maintained by local, state, or federal law
26 enforcement agencies.

27 (d) Department background investigations are governed by

1 this chapter and by Chapter 53 of this code and Section 411.122,
2 Government Code. Conviction of a crime does not automatically
3 disqualify a controlling person, require the revocation of a
4 license, or require the denial of an application for a new or
5 renewed license. The department shall consider criminal
6 convictions as provided by Chapter 53 of this code and Section
7 411.122, Government Code.

8 (e) Each licensee shall maintain a registered agent for the
9 service of process in this state.

10 (f) An applicant for an original or renewal license must
11 demonstrate a net worth as follows:

12 (1) \$50,000 if the applicant employs fewer than five
13 assigned employees;

14 (2) \$75,000 if the applicant employs at least five but
15 not more than eight assigned employees; or

16 (3) \$100,000 if the applicant employs more than eight
17 assigned employees.

18 (g) For purposes of Subsection (f), "assigned employee"
19 means a full-time employee whose normal work week is at least 25
20 hours per week and whose work is performed in this state. The term
21 does not include an employee hired to support or supplement the
22 client's workforce in special work situations, such as employee
23 absences.

24 (h) The applicant shall demonstrate net worth to the
25 department by providing the department with the applicant's
26 financial statement or a copy of the applicant's most recent
27 federal tax return. The net worth requirement may also be satisfied

1 through guarantees, letters of credit, or other security acceptable
2 to the department. A guaranty is not acceptable to satisfy this
3 subsection unless the applicant submits sufficient evidence to
4 satisfy the department that the guarantor has adequate resources to
5 satisfy the obligations of the guaranty.

6 (i) In calculating net worth, an applicant shall include
7 adequate reserves for all taxes and insurance, including reserves
8 for claims incurred but not paid and for claims incurred but not
9 reported under plans of self-insurance for health benefits. The
10 calculation of net worth by an applicant shall be made according to
11 Section 448, Internal Revenue Code of 1986.

12 (j) A document submitted to establish net worth must reflect
13 the net worth as of a date not earlier than six months before the
14 date on which the application is submitted. A document submitted to
15 establish net worth must be prepared or certified by an independent
16 certified public accountant. Information supplied regarding net
17 worth, including copies of federal tax returns, is proprietary and
18 confidential and is exempt from disclosure to third parties, other
19 than to other governmental agencies with a reasonable legitimate
20 purpose for obtaining the information.

21 Sec. 207.005. FEES. (a) Each applicant for an original or
22 renewal license shall pay to the department on the issuance of the
23 license or license renewal a fee set by the commission by rule in an
24 amount not to exceed \$3,000.

25 (b) The commission is authorized to charge reasonable fees
26 for license applications and renewals, investigations,
27 inspections, and any other administrative or enforcement

1 responsibilities created under this chapter.

2 Sec. 207.006. WORKERS' COMPENSATION INSURANCE. A licensee
3 may elect to obtain workers' compensation insurance coverage for
4 its assigned employees through an insurance company as defined
5 under Section 401.011, Labor Code, or through self-insurance as
6 provided under Chapter 407, Labor Code.

7 Sec. 207.007. UNEMPLOYMENT TAXES; PAYROLL. A licensee is
8 the employer of an assigned employee for purposes of Subtitle A,
9 Title 4, Labor Code. In addition to any other reports required to
10 be filed by law, a licensee shall report quarterly to the Texas
11 Workforce Commission the name, address, telephone number, federal
12 income tax identification number, and classification code as
13 described in the Standard Industrial Classification Manual as
14 published by the United States Office of Management and Budget of
15 each client company on a form prescribed by the Texas Workforce
16 Commission.

17 Sec. 207.008. POSTING OF LICENSES. (a) The commissioner by
18 rule shall determine the form and content of:

19 (1) the licenses issued under this chapter; and

20 (2) notices required to be posted under this section.

21 (b) Each license issued under this chapter must be posted in
22 a conspicuous place in the principal place of business in this state
23 of the licensee. Each licensee shall display, in a place that is
24 clear and unobstructed public view, a notice stating that the
25 business operated at the location is licensed and regulated by the
26 department and that any questions or complaints should be directed
27 to the department.

1 (c) Each licensee issued a
2 non-doctor-of-chiropractic-owned chiropractic clinic license
3 under this chapter must provide a copy of that license to the board
4 and to any and all contracting doctors of chiropractic upon receipt
5 of the initial license and annually upon renewal.

6 Sec. 207.009. LICENSE NOT ASSIGNABLE; CHANGES OF NAME OR
7 LOCATION. (a) A licensee may not conduct business under any name
8 other than that specified in the license. A license issued under
9 this chapter is not assignable. A licensee may not conduct business
10 under any fictitious or assumed name without prior written
11 authorization from the department. The department may not
12 authorize the use of a name that is so similar to that of a public
13 office or agency or to that of another licensee that the public may
14 be confused or misled by its use. A licensee may not conduct
15 business under more than one name unless it has obtained a separate
16 license for each name.

17 (b) A licensee may change its licensed name at any time by
18 notifying the department and paying a fee for each change of name.
19 The commission by rule shall set the fee for a name change in an
20 amount not to exceed \$50. A licensee may change its name on renewal
21 of the license without the payment of the name change fee.

22 (c) A licensee must notify the department in writing within
23 30 days of:

24 (1) any change in the location of its primary business
25 office;

26 (2) the addition of more business offices; or

27 (3) a change in the location of business records

1 maintained by the licensee.

2 Sec. 207.010. PROHIBITED ACTS; CRIMINAL PENALTY. (a) A
3 person may not:

4 (1) offer chiropractic services without holding a
5 license under this Act as a non-doctor-of-chiropractic-owned
6 chiropractic clinic;

7 (2) use the name or title "chiropractic clinic,"
8 "chiropractic offices," or any derivation of the term
9 "chiropractic," or otherwise represent that the person is licensed
10 under this chapter unless the person holds a license issued under
11 this chapter;

12 (3) represent as its own the license of another
13 location or represent that a facility is licensed if the person does
14 not hold a license;

15 (4) give materially false or forged evidence to the
16 department in connection with obtaining or renewing a license or in
17 connection with disciplinary proceedings under this chapter; or

18 (5) use or attempt to use a license that has expired or
19 been revoked.

20 (b) A person that violates Subsection (a) commits an
21 offense. An offense under this subsection is a Class A misdemeanor.

22 (c) The commissioner may notify the attorney general of a
23 violation, and the attorney general may apply to a district court in
24 Travis County for permission to file suit in the nature of quo
25 warranto or for injunctive relief, or both. The attorney general
26 may not be required to post a bond for injunctive relief.

27 Sec. 207.011. DISCIPLINARY ACTIONS. (a) For purposes of

1 this section, "conviction" includes a plea of nolo contendere or a
2 finding of guilt, regardless of adjudication.

3 (b) Disciplinary action may be taken against a licensee by
4 the department on any of the following grounds:

5 (1) the conviction of a licensee or any controlling
6 person of a licensee of bribery, fraud, or intentional or material
7 misrepresentation in obtaining, attempting to obtain, or renewing a
8 license;

9 (2) the conviction of a licensee or any controlling
10 person of a licensee of a crime that relates to the operation of a
11 non-doctor-of-chiropractic-owned chiropractic clinic or the
12 ability of the licensee or any controlling person of a licensee to
13 operate a non-doctor-of-chiropractic-owned chiropractic clinic;

14 (3) the conviction of a licensee or any controlling
15 person of a licensee of a crime that relates to the classification,
16 misclassification, or underreporting of employees under Subtitle
17 A, Title 5, Labor Code;

18 (4) the conviction of a licensee or any controlling
19 person of a licensee of a crime that relates to the establishment or
20 maintenance of a self-insurance program, whether health insurance,
21 workers' compensation insurance, or other insurance;

22 (5) the conviction of a licensee or any controlling
23 person of a licensee of a crime that relates to fraud, deceit, or
24 misconduct in the operation of a staff leasing service;

25 (6) engaging in services of a
26 non-doctor-of-chiropractic-owned chiropractic clinic without a
27 license;

1 (7) transferring or attempting to transfer a license
2 issued under this chapter;

3 (8) violating this chapter or any order or rule issued
4 by the department or commissioner under this chapter;

5 (9) failing to notify the department, in writing, of
6 the felony conviction of any controlling person not later than the
7 30th day after the date on which that conviction is final;

8 (10) failing to cooperate with an investigation,
9 examination, or audit of the licensee's records conducted by the
10 licensee's insurance company or the insurance company's designee,
11 as allowed by the insurance contract or as authorized by law by the
12 board;

13 (11) failing to notify the department and the board
14 not later than the 30th day after the effective date of the change
15 of any change in ownership, principal business address, or the
16 address of accounts and records;

17 (12) failing to correct any tax filings or payment
18 deficiencies within a reasonable time as determined by the
19 commissioner;

20 (13) refusing, after reasonable notice, to meet
21 reasonable health and safety requirements within the licensee's
22 control and made known to the licensee by a federal or state agency;

23 (14) a delinquency in the payment of any taxes or debts
24 owed to the State of Texas other than those subject to a legitimate
25 dispute;

26 (15) knowingly making a material misrepresentation to
27 an insurance company, or to the department or other governmental

1 agency; or

2 (16) failing to maintain the net worth requirements
3 required under Section 207.004.

4 (c) On a finding that a licensee has violated one or more
5 provisions of Subsection (b), the department may:

6 (1) deny an application for a license;

7 (2) revoke, restrict, or refuse to renew a license;

8 (3) impose an administrative penalty in an amount not
9 less than \$1,000 per violation, but not more than \$50,000;

10 (4) issue a reprimand; or

11 (5) place the licensee on probation for the period and
12 subject to conditions that the department specifies.

13 (d) On revocation of a license, the licensee shall
14 immediately return the revoked license to the department and notify
15 all employees, all patients, and the board that the clinic may no
16 longer provide chiropractic care and services.

17 (e) Disciplinary action may be taken, a denial of an
18 application for a new or renewal license or a revocation of a
19 license may be done, or a determination that a controlling person is
20 unqualified may be made by the department only subject to Chapter
21 2001, Government Code, with notice to, and an opportunity for a
22 hearing by, the affected applicant, licensee, or controlling
23 person.

24 (f) If a license is revoked or renewal is denied, the
25 affected licensee may request a reinstatement hearing after a
26 minimum of one year. The department may reinstate or renew the
27 license only if the cause of the nonrenewal or revocation has been

1 corrected.

2 Sec. 207.012. FEES USED FOR ADMINISTRATION. All fees
3 collected by the department under this chapter shall be used to
4 implement this chapter.

5 Sec. 207.013. EFFECT OF OTHER LAW. This chapter does not
6 exempt any assigned employee of a licensee from any other license
7 requirements imposed under local, state, or federal law.

8 SECTION 2. A person is not required to hold a license under
9 this Act to operate a non-doctor-of-chiropractic-owned
10 chiropractic clinic until January 1, 2008.

11 SECTION 3. This Act takes effect September 1, 2007.

HOUSE COMMITTEE REPORT

07 MAY -1 PM 4: 54
HOUSE OF REPRESENTATIVES

1st Printing

By: Truitt

H.B. No. 2602

Substitute the following for H.B. No. 2602:

By: Delisi

C.S.H.B. No. 2602

A BILL TO BE ENTITLED

AN ACT

relating to the regulation of certain chiropractic clinics;
providing administrative and criminal penalties.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subtitle G, Title 2, Health and Safety Code, is
amended by adding Chapter 147 to read as follows:

CHAPTER 147. NON-DOCTOR-OF-CHIROPRACTIC-OWNED CHIROPRACTIC CLINICS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 147.001. DEFINITIONS. In this chapter:

(1) "Applicant" means a person or business seeking to
be licensed under this chapter or seeking the renewal of a license
under this chapter.

(2) "Board" means the Texas Board of Chiropractic
Examiners.

(3) "Commission" means the Texas Commission of
Licensing and Regulation.

(4) "Commissioner" means the commissioner of
licensing and regulation.

(5) "Contracting doctor of chiropractic" means a
person engaged in the practice of chiropractic as described by
Section 201.002, Occupations Code, who holds a current active
license to practice chiropractic and who has entered into a
contractual agreement with a licensed chiropractic clinic owner to

1 provide chiropractic care.

2 (6) "Controlling person" means:

3 (A) an officer or director of a corporation
4 seeking a license under this chapter, a shareholder holding 10
5 percent or more of the voting stock of a corporation seeking to own
6 or operate a non-doctor-of-chiropractic-owned chiropractic clinic,
7 or a partner of a partnership seeking to own or operate a
8 non-doctor-of-chiropractic-owned chiropractic clinic; or

9 (B) an individual who possesses, directly or
10 indirectly, the power to direct or cause the direction of the
11 management or policies of a company that owns and operates a
12 non-doctor-of-chiropractic-owned chiropractic clinic through the
13 ownership of voting securities, by contract or otherwise.

14 (7) "Department" means the Texas Department of
15 Licensing and Regulation.

16 (8) "Doctor of chiropractic" means a person engaged in
17 the practice of chiropractic as described by Section 201.002,
18 Occupations Code.

19 (9) "License holder" means an individual or entity
20 licensed under this chapter who owns or operates a
21 non-doctor-of-chiropractic-owned chiropractic clinic.

22 (10) "Non-doctor-of-chiropractic-owned chiropractic
23 clinic" means a chiropractic facility licensed under this chapter
24 and registered under Section 201.312, Occupations Code.

25 Sec. 147.002. APPLICABILITY. This chapter does not apply
26 to the provision of chiropractic care, services, or procedures by a
27 doctor of chiropractic employed by or contracted with:

1 (1) a licensed physician;

2 (2) a person licensed as a physician and organized
3 under Title 7, Business Organizations Code;

4 (3) a person organized under Title 4, Business
5 Organizations Code, and composed entirely of licensed physicians;

6 (4) an approved nonprofit health corporation
7 certified under Chapter 162, Occupations Code;

8 (5) a medical school or medical and dental unit, as
9 defined by Section 61.003, Education Code, that employs or
10 contracts with a physician in a practice plan or to teach or provide
11 medical services; or

12 (6) any other entity wholly owned by one or more
13 licensed physicians.

14 [Sections 147.003-147.050 reserved for expansion]

15 SUBCHAPTER B. POWERS AND DUTIES OF DEPARTMENT AND COMMISSIONER

16 Sec. 147.051. RULES. (a) The commissioner shall adopt
17 rules as necessary to administer this chapter.

18 (b) Each license holder is governed and controlled by this
19 chapter and the rules adopted by the commissioner.

20 Sec. 147.052. INTERAGENCY COOPERATION. (a) Each state
21 agency that, in performing duties under other law, affects the
22 regulation of non-doctor-of-chiropractic-owned chiropractic
23 clinics shall cooperate with the department, the commissioner, and
24 other state agencies as necessary to fully implement and enforce
25 this chapter.

26 (b) The board, the Texas Department of Insurance, the
27 division of workers' compensation of the Texas Department of

1 Insurance, and the attorney general's office shall assist in the
2 implementation of this chapter and shall provide information to the
3 department on request.

4 Sec. 147.053. USE OF FEES. A fee collected by the
5 department under this chapter shall be used to implement and
6 enforce this chapter.

7 [Sections 147.054-147.100 reserved for expansion]

8 SUBCHAPTER C. LICENSING

9 Sec. 147.101. LICENSE REQUIRED. A
10 non-doctor-of-chiropractic-owned clinic may not allow a doctor of
11 chiropractic to engage in or offer chiropractic services or
12 chiropractic care at the clinic unless each controlling person for
13 the clinic holds a license issued under this chapter.

14 Sec. 147.102. LICENSE APPLICATION. (a) Each controlling
15 person for a non-doctor-of-chiropractic-owned chiropractic clinic
16 that desires an original or renewal
17 non-doctor-of-chiropractic-owned chiropractic clinic license
18 shall file with the department a written application accompanied by
19 the application fee.

20 (b) The department may require an applicant for a license
21 to provide information and certifications necessary to determine
22 that the applicant meets the licensing requirements of this
23 chapter. The department may also require the applicant to provide
24 information and certifications necessary to determine whether
25 individuals affiliated with the applicant are qualified to serve as
26 controlling persons.

27 (c) An applicant, a license holder, the spouse of an

1 applicant or license holder, a partner of a limited liability
2 partnership, or any stockholder of a corporation is ineligible for
3 a license for two years after the date of a final department action
4 on the denial or revocation of a license applied for or issued under
5 this chapter. This restriction does not apply to a denial or
6 revocation of a license based on:

7 (1) an inadvertent error or omission in the
8 application if that error or omission is promptly corrected;

9 (2) the fact that the experience documented to the
10 department was insufficient at the time of the previous
11 application; or

12 (3) the department being unable to complete the
13 background investigation required under Section 147.103 because of
14 insufficient information received from a local, state, or federal
15 law enforcement agency.

16 (d) An applicant, a license holder, the spouse of an
17 applicant or license holder, a partner of a limited liability
18 partnership, or any stockholder of a corporation is ineligible for
19 a license until the first anniversary of the date of a final
20 department action on the denial or revocation of a license applied
21 for or issued under this chapter if:

22 (1) the basis of the denial or revocation was that one
23 or more of the controlling persons affiliated with the applicant or
24 license holder was determined by the department to be unsuitable;
25 and

26 (2) that unsuitable controlling person has in fact
27 ceased to be a controlling person of the applicant or license

1 holder.

2 Sec. 147.103. LICENSE REQUIREMENTS. (a) In this section,
3 "good moral character" means a personal history of honesty,
4 trustworthiness, fairness, a good reputation for fair dealing, and
5 respect for the rights of others and for the laws of this state and
6 nation.

7 (b) To be qualified to serve as a controlling person for a
8 non-doctor-of-chiropractic-owned chiropractic clinic under this
9 chapter, the person must be at least 18 years of age, be of good
10 moral character, and have educational, managerial, or business
11 experience relevant to:

12 (1) operation of a business entity offering
13 chiropractic care; or

14 (2) service as a controlling person of a chiropractic
15 care facility.

16 (c) The department shall conduct a thorough background
17 investigation of each applicant to determine whether the applicant
18 is qualified under this chapter. The department may deny an
19 application for the issuance or renewal of a license if it finds
20 that the applicant is not qualified to be a controlling person under
21 this chapter. The investigation must include:

22 (1) the submission of fingerprints for processing
23 through appropriate local, state, and federal law enforcement
24 agencies; and

25 (2) examination by the department of police or other
26 law enforcement records maintained by local, state, or federal law
27 enforcement agencies.

1 (d) Department background investigations are governed by
2 this chapter and by Chapter 53, Occupations Code, and Section
3 411.122, Government Code. Conviction of a crime does not
4 automatically disqualify a controlling person, require the
5 revocation of a license, or require the denial of an application for
6 an original or renewal license. The department shall consider
7 criminal convictions as provided by Chapter 53, Occupations Code,
8 and Section 411.122, Government Code.

9 (e) Each license holder shall maintain a registered agent
10 for the service of process in this state.

11 (f) An applicant for an original or renewal license must
12 demonstrate that the clinic for which the person is applying as a
13 controlling person has a net worth as follows:

14 (1) \$50,000 if the clinic employs fewer than five
15 assigned employees;

16 (2) \$75,000 if the clinic employs at least five but not
17 more than eight assigned employees; or

18 (3) \$100,000 if the clinic employs more than eight
19 assigned employees.

20 (g) The applicant shall demonstrate the net worth of the
21 clinic to the department by providing the department with the
22 applicant's financial statement or a copy of the applicant's most
23 recent federal tax return. The net worth requirement may also be
24 satisfied through guarantees, letters of credit, or other security
25 acceptable to the department. A guaranty is not acceptable under
26 this subsection unless the applicant submits sufficient evidence to
27 satisfy the department that the guarantor has adequate resources to

1 satisfy the obligations of the guaranty.

2 (h) In calculating net worth, an applicant shall include
3 adequate reserves for all taxes and insurance, including reserves
4 for claims incurred but not paid and for claims incurred but not
5 reported under plans of self-insurance for health benefits. The
6 calculation of net worth by an applicant shall be made according to
7 Section 448, Internal Revenue Code of 1986.

8 (i) A document submitted to establish net worth must reflect
9 the net worth as of a date not earlier than six months before the
10 date on which the application is submitted. A document submitted to
11 establish net worth must be prepared or certified by an independent
12 certified public accountant. Information supplied regarding net
13 worth, including copies of federal tax returns, is proprietary and
14 confidential and is exempt from disclosure to third parties, other
15 than to other governmental agencies with a reasonable legitimate
16 purpose for obtaining the information.

17 Sec. 147.104. FEES. (a) Each applicant for an original or
18 renewal license shall pay to the department on the issuance or
19 renewal of the license a fee set by the commission by rule in an
20 amount not to exceed \$3,000.

21 (b) The commission may charge reasonable fees for license
22 applications and license renewals, investigations, inspections,
23 and any other administrative or enforcement responsibilities
24 created under this chapter.

25 Sec. 147.105. POSTING OF LICENSES. (a) The commissioner
26 by rule shall determine the form and content of:

27 (1) licenses issued under this chapter; and

1 (2) notices required to be posted under this section.

2 (b) Each license issued under this chapter must be posted in
3 a conspicuous place in the principal place of business in this state
4 of the license holder. Each license holder shall display, in a
5 place that is clear and unobstructed to public view, a notice
6 stating that the business operated at the location is licensed and
7 regulated by the department and that any questions or complaints
8 should be directed to the department.

9 (c) Each license holder issued a
10 non-doctor-of-chiropratric-owned chiropractic clinic license
11 under this chapter shall provide a copy of the license to the board
12 and to each contracting doctor of chiropractic on receipt of the
13 initial license and annually on renewal.

14 Sec. 147.106. LICENSE NOT ASSIGNABLE; CHANGE OF NAME OR
15 LOCATION. (a) A license holder may not conduct business under any
16 name other than that specified in the license. A license issued
17 under this chapter is not assignable. A license holder may not
18 conduct business under any fictitious or assumed name without prior
19 written authorization from the department. The department may not
20 authorize the use of a name that is so similar to that of a public
21 office or agency or to that of another license holder that the
22 public may be confused or misled by its use. A license holder may
23 not conduct business under more than one name unless it has obtained
24 a separate license for each name.

25 (b) A license holder may change its licensed name at any
26 time by notifying the department and paying a fee for each change of
27 name. The commission by rule shall set the fee for a name change in

1 an amount not to exceed \$50. A license holder may change its name on
2 renewal of the license without the payment of the name change fee.

3 (c) A license holder must notify the department in writing
4 within 30 days of:

5 (1) any change in the location of its primary business
6 office;

7 (2) the addition of more business offices; or

8 (3) a change in the location of business records
9 maintained by the license holder.

10 Sec. 147.107. RECORDS. Records of patient care and
11 treatment are the sole property of the patient and must be
12 maintained and kept in the custody of the doctor of chiropractic who
13 treats the patient for a period prescribed by the board.

14 [Sections 147.108-147.150 reserved for expansion]

15 SUBCHAPTER D. ADMINISTRATIVE AND CRIMINAL PENALTIES

16 Sec. 147.151. PROHIBITED ACTS; CRIMINAL PENALTY. (a) A
17 person may not:

18 (1) offer chiropractic services without holding a
19 license under this chapter as a non-doctor-of-chiropractic-owned
20 chiropractic clinic;

21 (2) use the name or title "chiropractic clinic" or
22 "chiropractic offices," or any derivation of the term
23 "chiropractic," or otherwise represent that the person is licensed
24 under this chapter unless the person holds a license issued under
25 this chapter;

26 (3) represent as the person's own the license of
27 another location or represent that a facility is licensed if the

1 person does not hold a license;

2 (4) give materially false or forged evidence to the
3 department in connection with obtaining or renewing a license or in
4 connection with disciplinary proceedings under this chapter; or

5 (5) use or attempt to use a license that has expired or
6 been revoked.

7 (b) A person that violates Subsection (a) commits an
8 offense. An offense under this subsection is a Class A misdemeanor.

9 (c) The commissioner may notify the attorney general of a
10 violation, and the attorney general may apply to a district court in
11 Travis County for permission to file suit in the nature of quo
12 warranto or for injunctive relief, or both. The attorney general
13 may not be required to post a bond for injunctive relief.

14 Sec. 147.152. DISCIPLINARY ACTIONS. (a) For purposes of
15 this section, "conviction" includes a plea of nolo contendere or a
16 finding of guilt, regardless of adjudication.

17 (b) Disciplinary action may be taken against a license
18 holder by the department on any of the following grounds:

19 (1) the conviction of a license holder or any
20 controlling person affiliated with a license holder of bribery,
21 fraud, or intentional or material misrepresentation in obtaining,
22 attempting to obtain, or renewing a license;

23 (2) the conviction of a license holder or any
24 controlling person affiliated with a license holder of a crime that
25 relates to the operation of a non-doctor-of-chiropractic-owned
26 chiropractic clinic or the ability of the license holder or
27 controlling person to operate a non-doctor-of-chiropractic-owned

1 chiropractic clinic;

2 (3) the conviction of a license holder or any
3 controlling person affiliated with a license holder of a crime that
4 relates to the classification, misclassification, or
5 underreporting of employees under Subtitle A, Title 5, Labor Code;

6 (4) the conviction of a license holder or any
7 controlling person affiliated with a license holder of a crime that
8 relates to the establishment or maintenance of a self-insurance
9 program, whether health insurance, workers' compensation
10 insurance, or other insurance;

11 (5) the conviction of a license holder or any
12 controlling person affiliated with a license holder of a crime that
13 relates to fraud, deceit, or misconduct in the operation of a staff
14 leasing service;

15 (6) engaging in services of a
16 non-doctor-of-chiropractic-owned chiropractic clinic without a
17 license;

18 (7) transferring or attempting to transfer a license
19 issued under this chapter;

20 (8) violating this chapter or any order or rule issued
21 by the department or commissioner under this chapter;

22 (9) failing to notify the department, in writing, of
23 the felony conviction of any controlling person not later than the
24 30th day after the date on which that conviction is final;

25 (10) failing to cooperate with an investigation,
26 examination, or audit of the license holder's records conducted by
27 the license holder's insurance company or the insurance company's

1 designee, as allowed by the insurance contract or as authorized by
2 the board;

3 (11) failing to notify the department and the board
4 not later than the 30th day after the effective date of any change
5 in ownership, principal business address, or the address of
6 accounts and records;

7 (12) failing to correct any tax filing or payment
8 deficiency within a reasonable time as determined by the
9 commissioner;

10 (13) refusing, after reasonable notice, to meet
11 reasonable health and safety requirements within the license
12 holder's control and made known to the license holder by a federal
13 or state agency;

14 (14) a delinquency in the payment of any taxes or debts
15 owed to this state other than a tax or debt subject to a legitimate
16 dispute;

17 (15) knowingly making a material misrepresentation to
18 an insurance company, the department, or any other governmental
19 agency; or

20 (16) failing to maintain the net worth requirements
21 required under Section 147.103.

22 (c) On a finding that a license holder or applicant has
23 violated one or more provisions of Subsection (b), the department
24 may:

25 (1) deny an application for a license;

26 (2) revoke, restrict, or refuse to renew a license;

27 (3) impose an administrative penalty in an amount not

1 less than \$1,000 per violation, but not more than \$50,000;

2 (4) issue a reprimand; or

3 (5) place the license holder on probation for a period
4 and subject to conditions that the department specifies.

5 (d) On revocation of a license, the license holder shall
6 immediately return the revoked license to the department and notify
7 all employees, all patients, and the board that the clinic may no
8 longer provide chiropractic care and services.

9 (e) The department may take disciplinary action, deny a
10 license application or renewal, or revoke a license only on a
11 determination that a controlling person is unqualified, after
12 notice to, and an opportunity for a hearing by, the affected
13 applicant, license holder, or controlling person in accordance with
14 Chapter 2001, Government Code.

15 (f) If a license is revoked or renewal is denied, the
16 affected license holder may not request a reinstatement hearing
17 before the first anniversary of the date of revocation or denial.
18 The department may reinstate or renew the license only if the cause
19 of the revocation or denial has been corrected.

20 SECTION 2. Not later than November 1, 2007, the
21 commissioner of licensing and regulation shall adopt rules as
22 required by Section 147.051, Health and Safety Code, as added by
23 this Act.

24 SECTION 3. This Act takes effect September 1, 2007, except
25 that Section 147.101 and Subchapter D, Chapter 147, Health and
26 Safety Code, as added by this Act, take effect January 1, 2008.

COMMITTEE REPORT

The Honorable Tom Craddick
Speaker of the House of Representatives

4-26-2007
(date)

Sir:

We, your COMMITTEE ON PUBLIC HEALTH

to whom was referred HB 2602 have had the same under consideration and beg to report back with the recommendation that it

- () do pass, without amendment.
- () do pass, with amendment(s).
- (x) do pass and be not printed; a Complete Committee Substitute is recommended in lieu of the original measure.
- (x) yes () no A fiscal note was requested.
- () yes (x) no A criminal justice policy impact statement was requested.
- () yes (x) no An equalized educational funding impact statement was requested.
- () yes (x) no An actuarial analysis was requested.
- () yes (x) no A water development policy impact statement was requested.
- () yes (x) no A tax equity note was requested.
- () The Committee recommends that this measure be sent to the Committee on Local and Consent Calendars.

For Senate Measures: House Sponsor

Joint Sponsors:

Co-Sponsors:

The measure was reported from Committee by the following vote:

	AYE	NAY	PNV	ABSENT
Delisi, Chair	✓			
Laubenberg, Vice-chair				✓
Jackson, CBO	✓			
Cohen	✓			
Coleman	✓			
Gonzales	✓			
King, S.	✓			
Olivo	✓			
Truitt	✓			

Total

8 aye
0 nay
0 present, not voting
1 absent

Chairman Delisi
CHAIR

BILL ANALYSIS

C.S.H.B. 2602
By: Truitt
Public Health
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Under existing law, chiropractic clinics may either be owned by a chiropractor who is licensed and regulated by the Texas Board of Chiropractic Examiners, or by others who are not regulated or licensed by any state agency.

In the public's interest and the patient's right to know, HB 2602 provides for the licensing and regulation of non-doctor-of chiropractic-owned chiropractic clinics.

RULEMAKING AUTHORITY

It is the opinion of the committee that additional rulemaking authority is expressly granted to the commissioner of licensing and regulation in SECTION 1 and SECTION 2 of the bill. The rulemaking authority of the commissioner of licensing and regulation is also referenced in SECTION 1 of the bill.

ANALYSIS

CSHB 2602 amends Subtitle G, Title 2, Health and Safety Code, by adding Chapter 147 to create a new licensing regime for non-doctor-of-chiropractic-owned chiropractic clinics.

CSHB 2602 defines the following terms: "applicant," "board," "commission," "commissioner," "contracting doctor of chiropractic," "controlling person," "department," "doctor of chiropractic," "license holder," and "non-doctor-of-chiropractic-owned chiropractic clinic."

CSHB 2602 does not apply to the provision of chiropractic care, services, or procedures by a doctor of chiropractic employed by or contracted with certain specified entities.

CSHB 2602 requires the commissioner of licensing and regulation ("commissioner") to adopt rules as necessary to administer the bill. The rules set by the commissioner govern and control each license holder under the bill. Each state agency whose duties under other law affects the regulation of non-doctor-of-chiropractic-owned chiropractic clinics is required to cooperate with the Texas Department of Licensing and Regulation ("TDLR"), the commissioner, and other state agencies as necessary to enforce this chapter. In particular, the Texas Department of Insurance ("TDI"), the division of workers' compensation at TDI, and the attorney general's office are required to assist in the implementation of this bill.

A fee collected by TDLR under this bill is required to be used to implement and enforce the bill.

CSHB 2602 prohibits a non-doctor-of-chiropractic-owned chiropractic clinic from allowing a doctor of chiropractic to engage in or offer chiropractic services or care at the clinic unless each controlling person for the clinic holds a license issued under the bill. Each controlling person for a non-doctor-of-chiropractic-owned chiropractic clinic that desires an original or renewal non-doctor-of-chiropractic-owned chiropractic clinic license is required to file with TDLR a written application accompanied by an application fee. TDLR is authorized to require an applicant to provide information and certifications necessary to determine that the applicant meets the licensing requirements of the bill, as well as information and certifications necessary to determine that individuals affiliated with the applicant are qualified to serve as controlling persons. Except under certain specified circumstances, an applicant, license holder, a spouse of an applicant or license holder, a partner of a limited liability partnership, or any stockholder of a corporation is ineligible for a license for two years after the date of final TDLR action on the

denial or revocation of a license applied for or issued. If the basis for the denial or revocation was that one or more of the controlling persons affiliated with the applicant or licensee was determined to be unsuitable, and that controlling person has ceased to be a controlling person, the ineligibility lasts one year from final action by TDLR.

CSHB 2602 provides that to be qualified to serve as a controlling person of a licensee, that person must be at least 18 years of age, of good moral character as defined by the bill, and have educational, managerial, or business experience relevant to operation of a business entity offering chiropractic care or service as a controlling person of a chiropractic care facility. TDLR is required to conduct a thorough background investigation of each applicant to determine whether that applicant is qualified. This background check may be the basis for the denial of an original or renewal license. CSHB 2602 provides minimum standards that the background investigation must meet. Conviction of a crime does not automatically disqualify a controlling person, require revocation of a license, or require the denial of an application for a new or renewal license. CSHB 2602 requires each license holder to maintain a registered agent for the service of process in this state. CSHB 2602 requires an applicant for an original or renewal license to demonstrate that the clinic for which the person is applying as a controlling person has a certain specified net worth based on the number of assigned employees. CSHB 2602 provides the methods by which an applicant may prove and calculate the applicant's net worth.

CSHB 2602 requires each applicant for an original or renewal license to pay to TDLR on the issuance or renewal of the license a fee set by the Commission on Licensing and Regulation ("commission") by rule in an amount not to exceed \$3,000. The commission is authorized to charge a reasonable fee for license applications and license renewals, investigations, inspections, and any other administrative or enforcement responsibilities created under this chapter.

CSHB 2602 directs the commissioner to determine by rule the form and content of the licenses issued under this chapter and the notices required to be posted under the bill. Each license issued under the bill is required to be posted in a conspicuous place in the principal place of business. Each license holder must also display clearly a notice stating that the business operated at the location is licensed and regulated by TDLR and that any questions or complaints should be directed to TDLR. Each license holder must also provide a copy of the license to the Texas Board of Chiropractic Examiners ("TBCE") and to each contracting doctor of chiropractic upon receipt of the initial license and annually upon renewal.

CSHB 2602 prohibits a license holder from conducting business under any name other than that specified in the license, under any fictitious or assumed name without prior written authorization from TDLR, or under more than one name unless it has obtained a separate license for each name. TDLR is prohibited from authorizing the use of a name that is so similar to that of a public office or agency or to that of another license holder that the public may be confused or misled by its use. A license issued under this bill is not assignable. CSHB 2602 allows a license holder to change its licensed name at any time by notifying TDLR and paying a fee for each change of name as set by TDLR by rule in amount not to exceed \$50. A license holder is authorized to change its licensed name on renewal of the license without the payment of the name change fee. CSHB 2365 requires a license holder to notify TDLR in writing within 30 days of any change in the location of its primary business office, the addition of more business offices, or a change in the location of business records maintained by the licensee.

CSHB 2602 stipulates that records of patient care and treatment are the sole property of the patient and must be maintained and kept in the custody of the doctor of chiropractic who treats the patient for a period prescribed by TBCE.

CSHB 2602 creates an offense of a Class A misdemeanor for certain specified prohibited acts. The commissioner is authorized to notify the attorney general of a violation, and the attorney general is authorized to apply to a district court in Travis County for permission to file suit in the nature of quo warrant or for injunctive relief, or both. The attorney general may not be required to post a bond for injunctive relief.

CSHB 2602 stipulates that for the purposes of the section of the bill relating to disciplinary actions, "conviction" includes a plea of nolo contendere or a finding of guilt, regardless of adjudication. CSHB 2602 authorizes TDLR to take disciplinary action against a license holder on

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certain specified grounds. CSHB 2602 specifies what disciplinary actions may be taken. Upon revocation of a license, the license holder is required to immediately return the revoked license to TDLR and notify all employees, all patients, and TBCE that the clinic may no longer provide chiropractic care and services. TDLR is authorized to take disciplinary action, deny a license application or renewal, or revoke a license only on a determination that a controlling person is unqualified, after notice to, and an opportunity for a hearing by, the affected applicant, license holder, or controlling person in accordance with Chapter 2001, Government Code. If a license is revoked or a renewal is denied, the affected license holder may not request a reinstatement hearing before the first anniversary of the date of the revocation or denial. TDLR is authorized to reinstate or renew the license only if the cause of the revocation or denial has been corrected.

Not later than November 1, 2007, CSHB 2602 requires the commissioner to adopt rules as required by Section 147.051, Health and Safety Code, as added by the bill.

EFFECTIVE DATE

September 1, 2007, except that Section 147.101 and Subchapter D, Chapter 147, Health and Safety Code, as added by the bill, take effect January 1, 2008.

COMPARISON OF ORIGINAL TO SUBSTITUTE

Whereas SECTION 1 of the bill as filed amended Subtitle C, Title 3, Occupations Code by adding Chapter 207, the substitute amends Subtitle G, Title 2, Health and Safety Code, by adding Chapter 147.

Sec. 147.001, Health and Safety Code, as added by the substitute, corresponds to Sec. 207.001, Occupations Code, as added by the bill as filed. The substitute does not provide definitions for the following terms: "chiropractic care records," "licensee," "contracted doctor of chiropractic," "independent contractor," "patient," "person" and "public company." The substitute provides definitions for the following terms that were not defined in the bill as filed: "contracting doctor of chiropractic" and "license holder." The substitute changes the definition of the following terms defined by the bill as filed: "doctor of chiropractic" and "non-doctor-of-chiropractic-owned chiropractic clinic."

Wherever the term "licensee" appears in the bill as filed, the term "license holder" appears in the substitute. These changes are meant to conform with generally accepted Legislative Council practice. Because the bill was moved from one code to another, conforming changes are made to correct references in the substitute.

The substitute adds Sec. 147.002, Health and Safety Code, relating to the applicability of the bill, which does not have a corresponding section in the bill as filed.

The substitute reserves the following sections for expansion: Sections 147.003-147.050, Sections 147.054-147.100, and 147.108-147.150, Health and Safety Code.

Subsections (a) and (c) of Section 207.002, Occupations Code, as added by the bill as filed, correspond to Section 147.051, Health and Safety Code, as added by the substitute, except that conforming changes are made. Subsection (e) of Section 207.002, Occupations Code, as added by the bill as filed, corresponds to Section 147.052, Health and Safety Code, as added by the substitute, except that conforming changes are made and the language is reorganized.

The substitute adds Section 147.053, Health and Safety Code, relating to the use of fees, which does not have a corresponding Section in the bill as filed.

Subsection (a) of Section 207.003, Occupations Code, as added by the bill as filed, corresponds to Section 147.101, Health and Safety Code, as added by the substitute, except that the phrase "in this state without holding" in the bill as filed is replaced with "at the clinic unless each controlling person for the clinic holds" in the substitute.

Subsections (b), (c), (d), and (e) of Section 207.003, Occupations Code, as added by the bill as filed, correspond to Section 147.102, Health and Safety Code, as added by the substitute, except

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that: in Subsection (a) of the substitute, corresponding to Subsection (b) of the bill as filed, the phrase "controlling person for" is inserted after the word "each"; in Subsection (c) of the substitute, corresponding to Subsection (d) of the bill as filed, "LLP" in the bill as filed is replaced with "limited liability partnership" in the substitute and the phrase "if the basis of the action was" in the bill as filed is replaced with the phrase "based on" in the substitute; in Subdivision (c)(2) of the substitute, corresponding to Subdivision (d)(2) of the bill as filed, the substitute inserts the phrase "the fact that" at the beginning of the subdivision; in Subdivision (c)(3) of the substitute, corresponding to Subdivision (d)(3) of the bill as filed, the substitute replace the word "was" in the bill as filed with "being"; in Subsection (d) of the substitute, corresponding to Subsection (e) of the bill as filed, "LLP" in the bill as filed is replaced with "limited liability partnership" in the substitute and the phrase "for one year after" in the bill as filed is replaced with "until the first anniversary of" in the substitute; and in Subdivision (d)(1) of the substitute, corresponding to Subdivision (e)(1) in the bill as filed, the third instance of the word "or" in the bill as filed is replaced with "and".

Sec. 147.103, Health and Safety Code, as added by the substitute, corresponds to Sec. 207.004, Occupations Code, as added by the bill as filed, except that: Subsection (a) of the substitute, corresponding to Subsection (b) of the bill as filed, replaces the phrase "for the purposes of" in the bill as filed with "in"; in Subsection (b) of the substitute, corresponding to Subsection (a) of the bill as filed, the phrase "of a licensee" is removed; in Subsection (c) of the substitute and bill as filed the phrases "individual" and "and of each controlling person of each applicant" in the bill as filed are removed and the substitute replaces the phrase "a controlling person is not qualified" in the bill as filed with "the applicant is not qualified"; in Subsection (d) of the substitute and the bill as filed, the substitute replaces the phrase "a new or renewed license" in the bill as filed with the phrase "an original or renewal license"; in Subsection (f) of the bill as filed and substitute, the substitute adds the phrase "that the clinic for which the person is applying as a controlling person has" between the words "demonstrate" and "a" in the bill as filed; in subdivisions (f)(1), (2), and (3) of the substitute and bill as filed, the substitute replaces the word "applicant" in the bill as filed with the word "clinic"; Subsection (g) of the bill as filed does not have a corresponding section in the substitute; and in Subsection (g) of the substitute, corresponding to Subsection (h) of the bill as filed, the phrase "demonstrate net worth to the department" in the bill as filed is replaced with "demonstrate the net worth of the clinic to the department" and the phrase "to satisfy" in the bill as filed is replaced by "under".

Section 147.104, Health and Safety Code, as added by the substitute, corresponds to Sec. 207.005, Occupations Code, as added by the bill as filed, except that: in Subsection (a) of the bill as filed and substitute, the phrase "on the issuance of the license or license renewal" in the bill as filed is replaced with the phrase "on the issuance or renewal of the license"; and in Subsection (b) of the substitute and the bill as filed, the phrase "is authorized to" in the bill as filed is replaced with the word "may" and the substitute inserts the word "license" before the word "renewals" in the bill as filed.

Sections 207.006 and 207.007, Occupations Code, as added by the bill as filed, do not have corresponding sections in the substitute.

Sec. 147.105, Health and Safety Code, as added by the substitute, corresponds to Sec. 207.008, Occupations Code, as added by the bill as filed, except that in Subsection (c), the substitute replaces the phrase "must provide a copy of that license" in the bill as filed with the phrase "shall provide a copy of the license" and changes the phrase "doctors of chiropractic" in the bill as filed to "doctor".

Sec. 147.106, Health and Safety Code, as added by the substitute, corresponds to Sec. 207.009, Occupations Code, as added by the bill as filed, except that in Subsection (a) the substitute removes the phrase "fictitious or assumed" from the language added by the bill as filed.

The substitute adds Section 147.107, Health and Safety Code, relating to maintenance of patient records which has no corresponding section in the bill as filed.

Sec. 147.151, Health and Safety Code, as added by the substitute, corresponds to Sec. 207.010, Occupations Code, as added by the bill as filed, except that: in Subdivision (a)(2) the substitute removes the comma and adds the word "or" between the phrases "chiropractic clinic" and

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"chiropractic office"; and in Subdivision (a)(3) the substitute replaces the phrase "its own" in the bill as filed with the phrase "the person's own".

Sec. 147.152, Health and Safety Code, as added by the substitute, corresponds to Sec. 207.011, Occupations Code, as added by the bill as filed, except that: wherever the phrase "controlling person of a licensee" appears in the bill as filed the substitute replaces it with the phrase "controlling person affiliated with a license holder"; in Subdivision (b)(10), the substitute removes the phrase "by law" from the language added by the bill as filed; in Subdivision (b)(11), the substitute removes the phrase "the change of" from the language added by the bill as filed; in Subdivision (b)(14), the substitute replaces the phrase "the State of Texas" in the bill as filed with the phrase "this state" and replaces the phrase "other than those" in the bill as filed with the phrase "a tax or debt"; in Subdivision (c)(5), the substitute replaces the phrase "the period" in the bill as filed with "a period"; the substitute rewords Subsection (e); and in Subsection (f), the substitute inserts the word "not" after the word "may", replaces the phrase "after a minimum of one year" in the bill as filed with the phrase "before the first anniversary of the date of the revocation or denial", and replaces the phrase "cause of the nonrenewal or revocation" in the bill as filed with the phrase "cause of the revocation or denial".

Sections 207.012 and 207.013, Occupations Code, as added by the bill as filed, have no corresponding sections in the substitute.

SECTION 2 of the bill as filed does not have a corresponding section in the substitute. SECTION 2 of the substitute directs the commissioner of licensing and regulation to adopt certain rules before a specified date.

SECTION 3 of the bill as filed corresponds to SECTION 3 of the substitute, except that the substitute stipulates that certain portions of the bill do not become effective until January 1, 2008.

SUMMARY OF COMMITTEE ACTION

HB 2602

April 11, 2007 8:00 AM

Considered in public hearing

Testimony taken in committee (See attached witness list.)

Left pending in committee

April 26, 2007 upon lunch recess

Considered in formal meeting

Committee substitute considered in committee

Reported favorably as substituted

WITNESS LIST

HB 2602

HOUSE COMMITTEE REPORT

Public Health Committee

April 11, 2007 - 8:00 AM

For: Nelson, Dr. Greg (Texas Chiropractic Association)

On: Parker, Glenn (Board of Chiropractic Examiners Executive Director)

Registering, but not testifying:

For: Finch, Dan (Texas Medical Association)

Kent, Chip (Texas Chiropractic Association)

Against: Hardy, Richard (Accident & Injury Pain Centers INC.)

On: Francis, Brian (Texas Department of Licensing and Regulation)

Kuntz Jr, William H. (Texas Department of Licensing & Regulation)

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

April 30, 2007

TO: Honorable Dianne White Delisi, Chair, House Committee on Public Health

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB2602 by Truitt (Relating to the regulation of certain chiropractic clinics; providing administrative and criminal penalties.), **Committee Report 1st House, Substituted**

Estimated Two-year Net Impact to General Revenue Related Funds for HB2602, Committee Report 1st House, Substituted: a negative impact of (\$8,356) through the biennium ending August 31, 2009.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2008	(\$3,910)
2009	(\$4,446)
2010	(\$4,982)
2011	(\$5,518)
2012	(\$6,054)

All Funds, Five-Year Impact:

Fiscal Year	Probable Revenue Gain from GENERAL REVENUE FUND 1	Probable Savings/ (Cost) from GENERAL REVENUE FUND 1	Probable Revenue (Loss) from GENERAL REVENUE FUND 1	Change in Number of State Employees from FY 2007
2008	\$210,847	(\$210,847)	(\$3,910)	2.0
2009	\$141,547	(\$141,547)	(\$4,446)	2.0
2010	\$141,547	(\$141,547)	(\$4,982)	2.0
2011	\$141,547	(\$141,547)	(\$5,518)	2.0
2012	\$141,547	(\$141,547)	(\$6,054)	2.0

Fiscal Analysis

The bill would amend the Occupations Code to provide for the regulation of non-doctor-of-chiropractic-owned chiropractic clinics by the Texas Department of Licensing and Regulation (TDLR). The bill would authorize TDLR to set fees for original and renewal licenses in an amount not to exceed \$3,000.

The bill would take effect September 1, 2007.

Methodology

It is assumed that TDLR would incur costs associated with implementing the provisions of the bill. These costs would include salaries for 2 FTEs, one Program Specialist IV and one Administrative Assistant III, in the amount of \$80,220 each fiscal year with associated benefit costs of \$23,857. Other costs and operating expenses, including travel and hiring a consultant in fiscal year 2008 to write the software to allow cross-checking of new applicants with enforcement records, are assumed to be \$106,770 in fiscal year 2008 and \$37,470 in subsequent fiscal years. It is assumed TDLR would set original and renewal license fees in an amount to cover these costs.

It is assumed that while TDLR would license non-doctor-of-chiropractic-owned chiropractic clinics, the controlling persons of the clinics, and investigate and resolve complaints against the non-doctor-of-chiropractic owners of those clinics, the Texas Board of Chiropractic Examiners would continue to investigate and resolve complaints against the doctors of chiropractic working in those clinics. It is also assumed non-doctor-of-chiropractic-owned chiropractic clinics would be required to continue registering with the Texas Board of Chiropractic Examiners. Currently, there are approximately 335 non-doctor-of-chiropractic-owned chiropractic clinics and each fiscal year there are 50 new non-doctor-of-chiropractic-owned chiropractic clinic registrations. Based on the analysis of the Board of Chiropractic Examiners, it is assumed the number of non-doctor-of-chiropractic-owned chiropractic clinic new and renewal registrations would decrease by 15 percent in fiscal year 2008 because the bill provides for higher financial and suitability standards for non-doctor-of-chiropractic-owned chiropractic clinics that exist under current law. It is also assumed that the number of non-doctor-of-chiropractic-owned chiropractic clinic new licenses would be reduced by 15 percent in each subsequent year for the same reason. The original registration fee is \$70 while the annual renewal registration fee is \$67.

Based on the analysis of the Board of Chiropractic Examiners, Texas Workforce Commission, and Office of Attorney General, duties and responsibilities at those agencies associated with implementing the provisions of the bill could be absorbed within existing resources.

Technology

There would be a technology impact of \$3,800 in fiscal year 2008 for computer hardware and software.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 320 Texas Workforce Commission, 452 Department of Licensing and Regulation, 302 Office of the Attorney General, 304 Comptroller of Public Accounts, 454 Department of Insurance, 508 Board of Chiropractic Examiners

LBB Staff: JOB, AH, CL, MW, SK

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

April 10, 2007

TO: Honorable Dianne White Delisi, Chair, House Committee on Public Health

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: **HB2602** by Truitt (Relating to the regulation of certain chiropractic clinics; creating an offense and providing civil and criminal penalties.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for HB2602, As Introduced: a negative impact of (\$8,356) through the biennium ending August 31, 2009.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2008	(\$3,910)
2009	(\$4,446)
2010	(\$4,982)
2011	(\$5,518)
2012	(\$6,054)

All Funds, Five-Year Impact:

Fiscal Year	Probable Revenue Gain from GENERAL REVENUE FUND 1	Probable Savings/ (Cost) from GENERAL REVENUE FUND 1	Probable Revenue (Loss) from GENERAL REVENUE FUND 1	Change in Number of State Employees from FY 2007
2008	\$160,957	(\$160,957)	(\$3,910)	1.0
2009	\$97,557	(\$97,557)	(\$4,446)	1.0
2010	\$97,557	(\$97,557)	(\$4,982)	1.0
2011	\$97,557	(\$97,557)	(\$5,518)	1.0
2012	\$97,557	(\$97,557)	(\$6,054)	1.0

Fiscal Analysis

The bill would amend the Occupations Code to provide for the regulation of non-doctor-of-chiropractic-owned chiropractic clinics owned by the Texas Department of Licensing and Regulation (TDLR). The bill would authorize TDLR to set fees for original and renewal licenses in an amount not to exceed \$3,000 and provides that the fees collected under the bill shall be used to implement the provisions of the bill.

The bill would take effect September 1, 2007.

Methodology

It is assumed that TDLR would incur costs associated with implementing the provisions of the bill. These costs would include salaries for 1 FTE, one Program Specialist IV, in the amount of \$48,528 each fiscal year with associated benefit costs of \$13,729. Other costs and operating expenses, including travel and hiring a consultant in fiscal year 2008 to write the software to allow cross-checking of new applicants with enforcement records, are assumed to be \$98,700 in fiscal year 2008 and \$35,300 in subsequent fiscal years. It is assumed TDLR would set original and renewal license fees in an amount to cover these costs.

It is assumed that while TDLR would license non-doctor-of-chiropractic-owned chiropractic clinics and investigate and resolve complaints against the non-doctor-of-chiropractic owners of those clinics, the Texas Board of Chiropractic Examiners would continue to investigate and resolve complaints against the doctors of chiropractic working in those clinics. It is also assumed non-doctor-of-chiropractic-owned chiropractic clinics would be required to continue registering with the Texas Board of Chiropractic Examiners. Currently, there are approximately 335 non-doctor-of-chiropractic-owned chiropractic clinics and each fiscal year there are 50 new non-doctor-of-chiropractic-owned chiropractic clinic registrations. Based on the analysis of the Board of Chiropractic Examiners, it is assumed the number of non-doctor-of-chiropractic-owned chiropractic clinic new and renewal registrations would decrease by 15 percent in fiscal year 2008 because the bill provides for higher financial and suitability standards for non-doctor-of-chiropractic-owned chiropractic clinics that exist under current law. It is also assumed that the number of non-doctor-of-chiropractic-owned chiropractic clinic new licenses would be reduced by 15 percent in each subsequent year for the same reason. The original registration fee is \$70 while the annual renewal registration fee is \$67.

Based on the analysis of the Comptroller, the bill would create a dedicated revenue source that would be subject to funds consolidation review by the current Legislature.

Based on the analysis of the Board of Chiropractic Examiners, Texas Workforce Commission, and Office of Attorney General, duties and responsibilities at those agencies associated with implementing the provisions of the bill could be absorbed within existing resources.

Technology

There would be a technology impact of \$3,800 in fiscal year 2008 for computer hardware and software.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 302 Office of the Attorney General, 304 Comptroller of Public Accounts, 320 Texas Workforce Commission, 452 Department of Licensing and Regulation, 454 Department of Insurance, 508 Board of Chiropractic Examiners

LBB Staff: JOB, CL, MW, SK

H.B. No.

2602

By

Vicki Smith

A BILL TO BE ENTITLED
AN ACT

relating to the regulation of certain chiropractic clinics; creating an offense and providing civil and criminal penalties.

MAR 06 2007

Filed with the Chief Clerk

MAR 13 2007

Read first time and referred to Committee on Public Health

APR 26 2007

Reported favorably (as amended)
(as substituted)

MAY 02 2007

Sent to Committee on (Calendars)

(~~Local & General Calendars~~)

Read second time (comm. subst.) (amended); passed to third reading (failed) by a (non-record vote)
(record vote of _____ yeas, _____ nays, _____ present, not voting)

Constitutional rule requiring bills to be read on three several days suspended (failed to suspend)
by a vote of _____ yeas, _____ nays, _____ present, not voting

Read third time (amended); finally passed (failed to pass) by a (non-record vote)
(record vote of _____ yeas, _____ nays, _____ present, not voting)

Engrossed

Sent to Senate

CHIEF CLERK OF THE HOUSE

OTHER HOUSE ACTION:

Received from the House

Read and referred to Committee on _____

Reported favorably _____

Reported adversely, with favorable Committee Substitute; Committee Substitute read first time

Ordered not printed

Laid before the Senate

Senate and Constitutional Rules to permit consideration suspended by (unanimous consent)
(_____ yeas, _____ nays)

Read second time, _____, and passed to third reading by (unanimous consent)
(a viva voce vote)
(_____ yeas, _____ nays)

Senate and Constitutional 3 Day Rules suspended by a vote of _____ yeas, _____ nays

Read third time, _____, and passed by a (viva voce vote)
(_____ yeas, _____ nays)

Returned to the House

SECRETARY OF THE SENATE

OTHER SENATE ACTION:

_____ Returned from the Senate (as substituted)
(with amendments)

_____ House concurred in Senate amendments by a (non-record vote)
(record vote of _____ yeas, _____ nays, _____ present, not voting)

_____ House refused to concur in Senate amendments and requested the appointment of a conference committee
by a (non-record vote) (record vote of _____ yeas, _____ nays, _____ present, not voting)

_____ House conferees appointed: _____, Chair; _____,
_____, _____, _____

_____ Senate granted House request. Senate conferees appointed: _____, Chair;
_____, _____, _____

_____ Conference committee report adopted (rejected) by the House by a (non-record vote)
(record vote of _____ yeas, _____ nays, _____ present, not voting)

_____ Conference committee report adopted (rejected) by the Senate by a (viva voce vote)
(record vote of _____ yeas, _____ nays)

07 MAY -1 PM 4: 54

HOUSE OF REPRESENTATIVES